

13-9513  
OGC

29 NOV 1963

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Legislative Matters

1. This memorandum is for the information of the Director of Central Intelligence.

2. How the Agency is viewed by the Congress does not derive solely from the normal procedures concerned with proposed legislation. The most significant factors are the appearances of the Director before the CIA Subcommittees and the DCI intelligence briefings of other Committees. However, there are other day to day actions which are important and these are, in many ways, interrelated with the legislative processes of the Congress and the needs of individual members.

3. Committee Appearances. As a matter of policy, the CIA Subcommittee of House Armed Services has attempted to meet monthly with the Director. The CIA Subcommittee of House Appropriations meets on a more irregular basis. Senator Russell has followed the practice of holding joint meetings of the CIA Subcommittees of Senate Armed Services and Appropriations of which there have been four this year. However, there have been substantive intelligence briefings of many other Committees. The number of all briefings during 1963 totals thirty. The Agency consistently briefs the Joint Committee on Atomic Energy semiannually. During the year there have been three briefings each of the Senate Foreign Relations and House Foreign Affairs Committees. The Agency has briefed the Senate Preparedness Investigating Subcommittee on three occasions. Other briefings have included the Mahon Subcommittee on Defense Appropriations and the House Space Committee. This general pattern of briefing of other committees has been followed for some years.

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4. Other Committee Contacts. The Agency has rendered considerable assistance to other Committees. For example, the House Government Operations Committee last year conducted a Government-wide survey of use of the polygraph. Through extensive discussion both with the Chairman and staff members, the Agency's response avoided classified matters and yet satisfied the needs of the Committee whereas the responses of both Defense Department and State Department as submitted were rejected for providing insufficient information. Also, the Agency has rendered material assistance to the Joint Economic Committee over the years on a non-attributable basis in the Committee's preparation of "Comparison of U.S. and Soviet Economies." The two Jackson Subcommittees on Policy Machinery and National Security Staffing have issued reports on Policy Machinery and National Security Staffing for both the Soviet Union and Communist China. These studies have been acclaimed by the academic community as being the finest pieces of work in these fields in many a year and were, in fact, produced by the Agency on a non-attributable basis. The interests of the United States and the Agency have been served by controlled surfacing of defectors with the cooperation of the House Committee on Un-American Activities and the Senate Internal Security Subcommittee. In 1961, Mr. Helms testified before the latter Subcommittee on the subject of "Communist Forgeries." This was the first time a Senate Document was authorized to be printed in a foreign language (in this case three different languages) and received wide distribution throughout the world.

5. Individual Member Contacts. There were several hundred referrals of individuals for employment during the last year. Approximately an equal number of reports were requested which concern constituent problems dealing with substantive matters. Unlike most other departments which deal with requests for reports on constituent inquiries by routine correspondence, the Agency in most cases is unable to provide reports on an unclassified basis. Consequently, personal contact with the member is necessary in order to avoid the impression of a negative attitude by the Agency toward the member's needs. A large number of inquiries are made by members on an oral basis. In these cases, as well as in the case of written requests, the opportunity is taken to develop with the member the true role of the Agency in the Executive structure and, if necessary, to explain carefully the reasons why we are unable to provide reports on sensitive matters. On other

occasions, the Agency has actively sought the assistance of members in connection with classified situations where the member is otherwise involved. An example of this would be the assistance provided both by Senator Smathers and Representative Fascell in connection with CIA use, under cover, of [redacted] Another example was [redacted] ctive assistance over a period of time in connection with t [redacted] who became mentally disturbed and conducted a lengthy campaign of correspondence to half of the Senate membership and an equal number of Representatives. Personal contacts involved in the above type of situation totaled over 1100 for the first eleven months of 1963. Informal Congressional groups have been invited for breakfast or luncheon meetings in order to provide them with an understanding of the Agency mission. On a selected basis, members have visited with Agency personnel at overseas stations. As examples - Stennis, Mahon, Dodd (and President Johnson himself).

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6. Legislation.

a. The Agency monitors the 20,000 plus bills introduced into each Congress taking necessary action where (inadvertently in most cases) provisions in a bill would adversely affect CIA interests. Various Committees routinely request written reports from the Agency on legislative proposals.

b. The Early Retirement bill (H.R. 8427) sponsored by the Agency was the subject of hearings and favorable House floor action this year. The confidence of Representative Rivers (and his Subcommittee) in the Agency found expression in the fact that the final Committee report on this bill and all the floor speeches supporting the bill were prepared by the Agency. This bill is now pending in Senate Armed Services Committee.

c. Over the years, the Congress has acted favorably on a number of Agency sponsored private bills, mainly in the field of permitting entry of aliens or waiving the ten year naturalization waiting period required for former members of the Communist

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Party. The Agency has enjoyed the fullest cooperation on the part of the Immigration and Naturalization Subcommittees of both the House and the Senate. Further, a high degree of security has consistently obtained.

d. The Morrison Federal Pay bill, H.R. 8986, reported favorably by the House Post Office and Civil Service Committee, inadvertently placed the DCI at Level III in the Executive Pay structure whereas the Administration's bills (Udall and Broyhill) included the DCI at Level II. Mr. Morrison has strongly stated his view that this was a mistake and committed himself to submit a Committee amendment to correct it when the bill comes up for floor action.

e. There is renewed interest in Congress in the fact that it is not a Federal offense to murder the President and other high officials of the U.S. Government. It is believed that there are most cogent reasons why the murder of the DCI should also be made a Federal crime. It is difficult to foresee a proper and secure investigation by officials of some states of the possible assassination of the DCI. (A more detailed examination of this point is being prepared and will be forwarded in a few days.)

7. Twenty measures have been introduced in the 88th Congress proposing a Joint Committee on Intelligence which number is about the same as for the last several Congresses. Most of the current proponents are repeaters. With the expressed opposition of such leaders as Vinson, Russell and McCormack, it is doubtful that any action will be forthcoming on the current proposals.

[Redacted Signature Box]

John S. Warner  
Legislative Counsel

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29 NOV 1963

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Legal Role in Intelligence

1. This memorandum is for the information of the Director of Central Intelligence.

2. The intelligence activities of the Central Intelligence Agency and its covert operations present many truly unique legal problems. The nature of these problems runs the entire gamut of the private practice of law from admiralty and international law to taxes and insurance. However, these specialties of the law in CIA all have running through them the novel and peculiar thread of security not present elsewhere.

3. The General Counsel has been assigned full supervisory responsibility over such matters as liquidation of indebtedness of large amounts by agents involved in proprietary activities for the Agency. The General Counsel has also had full supervisory responsibilities for the negotiations of the release of Francis Powers and thereafter the intensive investigation and examination of all facets of this incident. Another major project assigned to the Office of General Counsel was the supervision of all aspects of the negotiations by James Donovan for release of the Cuban invasion brigade [redacted] held in Cuba. 25X1

4. In carrying out these unique responsibilities the General Counsel and members of his office maintain a wide acquaintanceship throughout the Executive Branch. In many cases this liaison relationship is in fact an intensive cooperative arrangement. Examples of departments involved include Justice in almost every component

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3 Excluded from automatic  
downgrading and  
declassification

including Immigration and Naturalization and the United States Attorneys throughout the country; Treasury including Internal Revenue Service, Customs, Narcotics, and Coast Guard; and various echelons of departments such as Defense and State.

5. In general categories with appropriate examples the following illustrate the extent of the Office's activities.

International Law

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Space Law

In order to properly put into context technical progress in space vehicles, a constant review of Soviet legal positions on the law of outer space is essential. The General Counsel has responsibility to assure that no international agreements are reached which would interfere with the United States' ability to conduct reconnaissance through satellites.

Protection of Intelligence Sources and Methods

For many years it has been recognized that the espionage laws and other criminal laws designed to protect classified

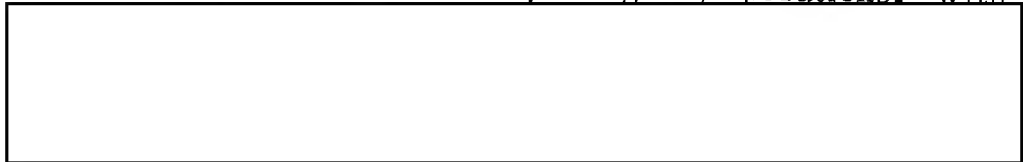
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information are inadequate because of legal technicalities. For some time this Office has been studying the problem and has advanced a proposal to USIB designed eventually to become a specific legislative proposal to protect intelligence information, thus putting teeth into the Director's legislative responsibility for protecting intelligence sources and methods.

#### Taxation

For many years this Office has maintained an extremely close relationship with the Internal Revenue Service, and methods have been devised for reporting and payment of taxes while maintaining security of Agency operations. With



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#### Insurance



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#### Personnel

In the maintenance of an effective work force the Director has the authority to terminate the employment of officials and employees in his discretion in the interests of the United States. Care must be taken when this authority is exercised so that it is consistent with the large field of law which has been built up around the concept that an agency's regulations in this field have the status of law. The Agency has been a defendant in three cases over the past several years involving former employees suing for damages or reinstatement because of an allegation that the employee was terminated wrongfully and without regard to Agency regulations. The Government was successful in the defense of these suits.


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6. In addition to the above examples the Office handles on a regular basis problems in procurement, interpretations of Agency regulations, and payment of claims. Because the Agency's functions are not under the scrutiny of the General Accounting Office, this Office acts in the capacity of the Comptroller General by issuing opinions regarding the proper expenditure of Confidential Funds.

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JOHN S. WARNER  
Acting General Counsel

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SUBJECT: Audit of Central Intelligence Agency

1. In order to assure that funds appropriated to the Central Intelligence Agency are used for proper purposes and full accountings are rendered therefor, Agency regulations delineate specific responsibilities and procedures to be observed in the allocation, application, and accounting of official funds. In addition to these operating controls, the Agency has provided for audit of all activities and expenditures. The objective of audit is to determine that controls and procedures are being applied effectively to safeguard resources and assure their use only for authorized purposes and to determine whether activities are conducted in conformance with policy determinations and directives. Audits by the Agency Audit Staff comprise the final audit of Agency activities since pursuant to agreement between the Comptroller General, the Chairman, House Committee on Armed Services, and the Director, CIA, the General Accounting Office withdrew from audit of the Agency in mid 1962. (Tab A)

2. All activities and installations, overseas as well as domestic, are scheduled for audit annually and at more frequent

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intervals where warranted by circumstances. Audits are conducted at the site of operations by auditors assigned to Headquarters or one of four overseas Audit Staff Offices.

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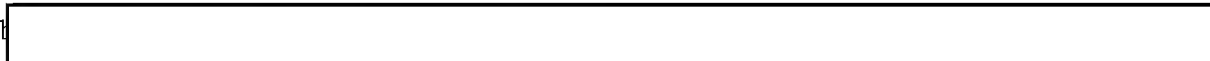
The Agency

Audit Staff furnishes audit instructions for the audit firm and reports of the results of the audit are furnished the Audit Staff for review and follow-up on Agency action. Examples of such audit arrangements are

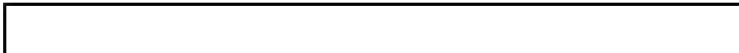


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4. All Agency audit reports are issued by the Audit Staff to the operating component concerned through the responsible Deputy Director. Recommendations for action require reply. Follow-up is maintained to assure appropriate action.

Audit Relationships - Central Intelligence  
Agency - General Accounting Office

OGC 1. In mid 1962, the Comptroller General advised Chairman Carl Vinson of the House Armed Services Committee that he had concluded that GAO should discontinue its limited audit of Central Intelligence Agency.

FOIAB5 2. The decision that the GAO should discontinue its limited audit was agreed to by Chairman Vinson and the Director, CIA. The GAO auditors were withdrawn from Agency audit.

5. In later years the General Accounting Office has developed and generally applied throughout the Government a type of audit referred to as a comprehensive audit. The purpose of a comprehensive audit is to review and evaluate the

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manner in which an Agency activity carries out its financial responsibilities. This review includes: a determination that the expenditure of funds and the utilization of property and personnel are in the furtherance only of authorized programs or activities and that the programs and activities are conducted in an effective, efficient, and economical manner; an examination of Organization structure and a review of Agency policies for conformance with legislative intent and applicability to Agency activities; and includes an examination of Agency practices and procedures in carrying out such policies.

6. In CIA, the General Accounting Office performed a voucher audit on vouchered funds only. This type of audit is generally limited to an examination of expenditure and collection vouchers and related documents to determine whether expenditures are made legally and solely for the objects for which appropriations are made.

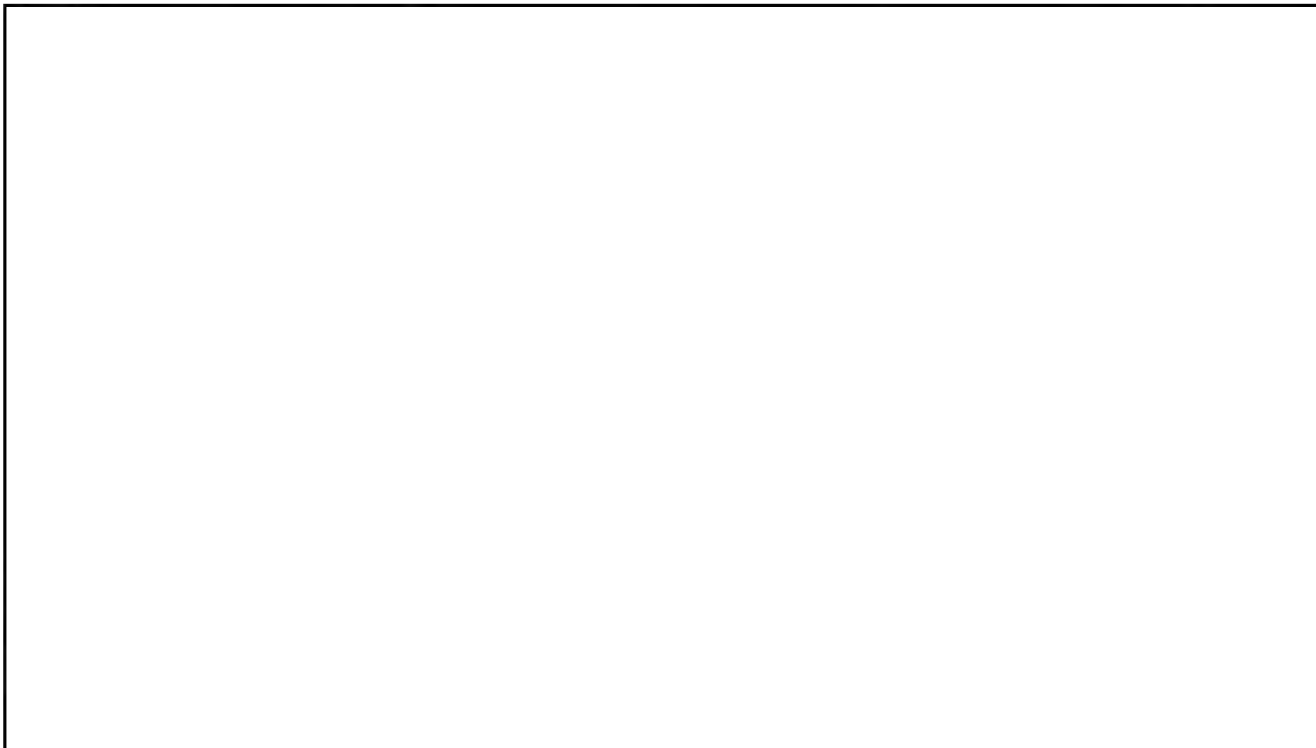
7. In 1959, the GAO raised with the CIA Subcommittee of the House Committee on Armed Services the desirability of an expanded audit of Agency activities. After considerable negotiation, letters were exchanged between the DCI and Comptroller General establishing a framework for a rather limited expansion of GAO audit. Subsequently in a report dated 16 May 1961, GAO concluded that as of that date the GAO did "not have sufficient access to make comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress...we plan to discontinue our audit of CIA activities." Both the DCI and Mr. Vinson, Chairman of the House Committee on Armed Services requested the Comptroller General to continue to audit Agency affairs on a limited basis.

8. Throughout negotiations in this matter, the Agency has held the position that there would be no objection to a comprehensive audit of vouchered activities if they could be isolated from confidential, extraordinary or emergency activities and considered independently. However, the two are inextricably enmeshed so that no thorough comprehensive audit of vouchered expenditures could be made which would not of necessity include consideration of sensitive intelligence and cold war activities.

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9. GAO recognition and acceptance of the limitations on outside audit of Agency affairs is reflected in a letter dated 23 May 1961 from the Comptroller General to Chairman Vinson, House Committee on Armed Services as follows: OGC FOIAB5



10. The need for and concept of limiting access for outside audit to nonsensitive material was stressed by the Director in his letter of 30 June 1959 (Attachment 1) to The President as follows:

"... if there is a broadening of the General Accounting Office's review into a comprehensive audit on the vouchered side, we will encounter serious problems as such an examination would necessarily extend into the field of intelligence sources and methods unless its scope were limited at our direction."

"... I would suggest that I discuss the matter... to determine whether a form of audit of so-called vouchered funds... can be agreed upon without impairing the powers and authorities with regard to expenditures for confidential purposes which we have found essential to our operations."

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CONFIDENTIAL

OGC 9-1033

30 June 1959

The President  
The White House  
Washington 25, D. C.

Dear Mr. President:

I have received a letter dated June 18, 1959, from Representative Paul J. Kilday, Chairman of the CIA Subcommittee of the House Armed Services Committee, concerning the audit of the so-called vouchered funds of this Agency as distinguished from the funds expended for highly classified confidential purposes. With this letter Mr. Kilday sent me a communication to him from the Comptroller General on the same subject.

The Comptroller General notes that since the enactment of Central Intelligence Agency legislation the General Accounting Office has generally broadened the type of audit made of activities of most Government agencies but that with the Central Intelligence Agency it has continued to make only a voucher audit of vouchered funds and no audit of confidential funds. He, therefore, recommends ". . . a change in the scope of our audit work at CIA. . ." by broadening the General Accounting Office's audit while recognizing that "Any broadening of our audit activities should not include an evaluation of the intelligence activities of the Agency." Mr. Kilday, speaking for his Subcommittee in his letter of June 18th, recommends that the Agency consider with the Comptroller General "a broader type of audit than is presently accomplished."

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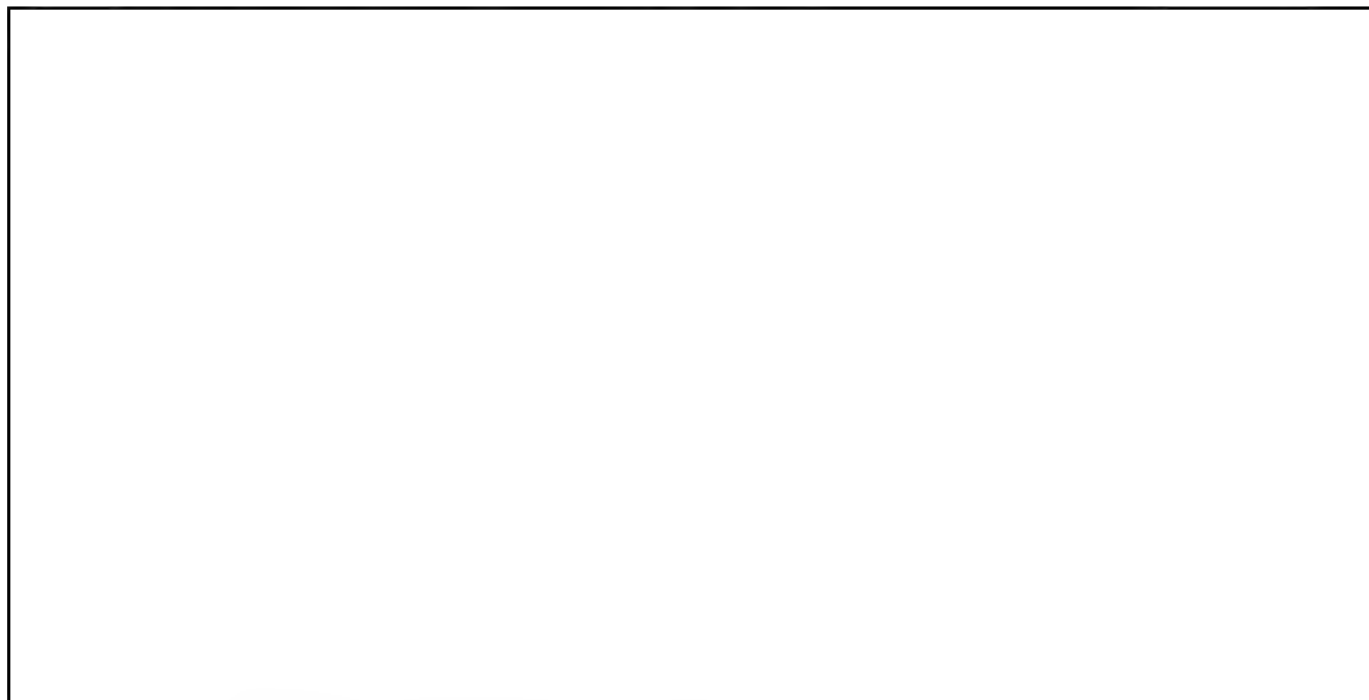
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I would be pleased to continue with these procedures; however, if there is a broadening of the General Accounting Office's review into a comprehensive audit of the vouchered side, we will encounter serious problems as such an examination would necessarily extend into the field of intelligence sources and methods unless its scope were limited at our direction.

The Central Intelligence Agency is a particularly sensitive arm of the executive branch of the Government in the general field of foreign relations, and I would not wish its usefulness to be impaired in any way by accepting from a body responsible to the legislative branch or from the legislative branch a measure of control or supervision detrimental to its effectiveness. Accordingly, I felt I should submit these facts to you. At the same time, I would suggest that I discuss the matter with the Comptroller General, Mr. Campbell, as well as Mr. Kilday, if you approve, to determine whether a form of audit of so-called vouchered funds satisfactory to the General Accounting Office and to Mr. Kilday and his Subcommittee can be agreed upon without impairing the powers and authorities with regard to expenditures for confidential purposes which we have found essential to our operations.

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If you agree, I shall proceed to have such conversations and I shall report the results to you without reaching any commitment until I have obtained your concurrence.

Sincerely,

/s/

Allen W. Dulles  
Director

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